

## § 240.12a-6

## 17 CFR Ch. II (4-1-01 Edition)

(d) The Exchange shall file with the Commission a notification on Form 26<sup>1</sup> promptly after taking action to admit any security to trading under this section: *Provided, however*, That no notification need be filed under this section concerning the admission or proposed admission to trading of additional amounts of a class of security admitted to trading on such exchange.

(e) Section 240.10b-1 shall be applicable to all securities exempted from the operation of section 12(a) of the act by this section.

(Secs. 3, 12, 48 Stat. 882, 892; 15 U.S.C. 78c (12), 78l)

[13 FR 8185, Dec. 22, 1948, as amended at 19 FR 669, Feb. 5, 1954; 20 FR 2081, Apr. 2, 1955; 53 FR 41206, Oct. 20, 1988]

### § 240.12a-6 Exemption of securities underlying certain options from section 12(a).

(a) When used in this rule, the following terms shall have the meanings indicated unless the context otherwise requires:

(1) The term *option* shall include any put, call, spread, straddle, or other option or privilege of buying a security from or selling a security to another without being bound to do so, but such term shall not include any such option where the writer is: The issuer of the security which may be purchased or sold upon exercise of the option, or is a person that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such issuer;

(2) The term *underlying security* means a security which relates to or is the subject of an option.

(b) Any underlying security shall be exempt from the operation of section 12(a) of the Act if all of the following terms and conditions are met:

(1) The related option is duly listed and registered on a national securities exchange;

(2) The only transactions on such exchange with respect to such underlying securities consist of the delivery of and payment for such underlying securities

pursuant to the terms of such options relating to the exercise thereof; and

(3) Such underlying security is (i) duly listed and registered on another national securities exchange at the time the option is issued; or (ii) duly quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ") at the time the option is issued.

(Secs. 3(a)(12); 48 Stat. 882, 84 Stat. 718, 1435, 1499 (15 U.S.C. 78(c)))

[38 FR 11449, May 8, 1973, as amended at 50 FR 20203, May 15, 1985]

### § 240.12a-7 Exemption of stock contained in standardized market baskets from section 12(a) of the Act.

(a) Any component stock of a standardized market basket shall be exempt from the registration requirement of section 12(a) of the Act, solely for the purpose of inclusion in a standardized market basket, provided that all of the following terms and conditions are met:

(1) The standardized market basket has been duly approved by the Commission for listing on a national securities exchange pursuant to the requirements of section 19(b) of the Act; and

(2) The stock is a National Market System security as defined in rule 11Aa2-1 under the Act (17 CFR 240.11Aa2-1) and is either:

(i) Listed and registered for trading on a national securities exchange by the issuer or

(ii) Quoted on the National Association of Securities Dealers Automated Quotation System;

(b) When used in this rule, the term standardized market basket means a group of at least 100 stocks purchased or sold in a single execution and at a single trading location with physical delivery and transfer of ownership of each component stock resulting from such execution.

[56 FR 28322, June 20, 1991]

### § 240.12a-8 Exemption of depositary shares.

Depository shares (as that term is defined in § 240.12b-2) registered on Form F-6 (§ 239.36 of this chapter), but not the underlying deposited securities, shall be exempt from the operation of

<sup>1</sup> Copy filed with the Federal Register Division.

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section 12(a) of the Act (15 U.S.C. 781(a)).

[62 FR 39766, July 24, 1997]

### REGULATION 12B: REGISTRATION AND REPORTING

SOURCE: Sections 240.12b-1 to 240.12b-36 appear at 13 FR 9321, Dec. 31, 1948, unless otherwise noted.

#### ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S-T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S-T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

#### GENERAL

#### § 240.12b-1 Scope of regulation.

The rules contained in this regulation shall govern all registration statements pursuant to sections 12(b) and 12(g) of the Act and all reports filed pursuant to sections 13 and 15(d) of the Act, including all amendments to such statements and reports, except that any provision in a form covering the same subject matter as any such rule shall be controlling.

[47 FR 11464, Mar. 16, 1982]

#### § 240.12b-2 Definitions.

Unless the context otherwise requires, the following terms, when used in the rules contained in this regulation or in Regulation 13A or 15D or in the forms for statements and reports filed pursuant to sections 12, 13 or 15(d) of the act, shall have the respective meanings indicated in this rule:

*Affiliate.* An "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

*Amount.* The term "amount," when used in regard to securities, means the

principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

*Associate.* The term "associate" used to indicate a relationship with any person, means (1) any corporation or organization (other than the registrant or a majority-owned subsidiary of the registrant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (3) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the registrant or any of its parents or subsidiaries.

*Certified.* The term "certified," when used in regard to financial statements, means examined and reported upon with an opinion expressed by an independent public or certified public accountant.

*Charter.* The term "charter" includes articles of incorporation, declarations of trust, articles of association or partnership, or any similar instrument, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

*Common equity.* The term "common equity" means any class of common stock or an equivalent interest, including but not limited to a unit of beneficial interest in a trust or a limited partnership interest.

*Control.* The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.